IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.598 OF 2007.
IN
SECOND APPEAL NO. 416 OF 1997.

Murlidhar Krishnaji Apte.
(since deceased through HLRs.)
1A.Shrikant Murlidhar Apte & ors. ... Applicants.
Versus.
Bhagwan Go;paldas Bhate
(since deceased through HLRs.)
1A Bhavna Bhagwandas Bhate & ors. ... Respondents.

Shri Umesh Mankapure for the Applicant.

Shri M.S.Lagu for Shri R.S.Apte for the Respondents.

CORAM : ABHAY S.OKA, J.

DATED : 22nd October, 2007.

P.C.:

1. Heard the learned Advocates appearing for the parties. This application is opposed by the proposed legal representatives of the deceased Respondent. Affidavit of Respondent No.1(a) is filed. The learned Advocate for the proposed legal representatives pointed out that the 1st Respondent died on 3rd November 2002 and in companion Second Appeal, Advocate for the 1st Respondent had informed the Advocate appearing for the Appellant in the said companion Second Appeal about the death of the 1st Respondent.

2. There is nothing on record to show that there was any intimation given to the Appellants in this Appal about the death of the 1st Respondent.

3. The delay is more than four years. Therefore, though Application deserves to be allowed, the same will have to be subject to payment of costs.

4. Hence the following order is passed:

i) Application is allowed in terms of prayer clauses (B) and (C), subject to the Applicant paying total costs of Rs.2000/- to the proposed legal representatives within a period of six weeks from today. Payment of costs will be a condition precedent.

ii) Deposit of the amount of costs in this Court or payment thereof to the Advocate representing the legal heirs will be treated as sufficient compliance.

Judge.